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# Taking evidence by videoconference

 Hungary

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**1 Is it possible for evidence to be taken by videoconference either with the participation of a court in the requesting Member State or directly by a court of that Member State? If yes, what are the relevant national procedures or laws that apply?**

Act CXXX of 2016 on the Code of Civil Procedure ([A polgári perrendtartásról szóló 2016. évi CXXX. Törvény](#), in Hungarian) ('Code of Civil Procedure') allows the court, either at the proposal of a party or acting on its own initiative, to order that a party, other participants in the court proceedings, a witness or an expert be examined, and – provided the owner of the item to be inspected does not object – that an inspection be carried out, via an electronic communications network. An examination via an electronic communications network may be ordered if it is expedient to do so, for example to speed up the proceedings; where an examination at the venue designated for the hearing would be difficult to organise or disproportionately expensive; or if the protection of a witness so requires.

The rules on examinations via an electronic communications network can be found in Chapter XLVII of the Code of Civil Procedure and in Decree No 19/2017 of 21 December 2017 of the Minister for Justice on the use of electronic communications networks in civil action hearings and examinations ([A polgári eljárásban a tárgyalás, a meghallgatás elektronikus hírközlő hálózat útján történő megtartásáról szóló 19/2017. \(XII. 21.\) IM rendelet](#), in Hungarian) ('Decree No 19/2017 of the Minister for Justice').

**2 Are there any restrictions on the type of person who can be examined by videoconference – for example, is it only witnesses or can others such as experts or parties also be examined in this way?**

There are no restrictions in respect of the persons who can be examined by videoconference. This method can be used to examine the parties and other participants in the court proceedings, witnesses, experts and owners of items to be inspected.

**3 What restrictions, if any, are there on the type of evidence that can be obtained by videoconference?**

A hearing, examination or inspection using an electronic communications network can be used to examine the parties and other participants in the court proceedings, witnesses and experts, or to conduct an inspection.

**4 Are there any restrictions on where the person should be examined by**

## videoconference – i.e. does it have to be in a court?

Examinations via an electronic communications network can take place at the premises of the court or another body, in separate rooms set up for that purpose, provided the conditions necessary for the operation of the electronic communications network are satisfied.

## 5 Is it permitted to record videoconference hearings and, if so, is the facility available?

Under the Code of Civil Procedure, the court may order at the trial stage – at the request of either party or on its own initiative – that the minutes of hearings, examinations or inspections conducted via an electronic communications network be prepared using continuous and simultaneous video and audio recordings if the technical conditions for doing so are satisfied.

## 6 In what language should the hearing be conducted: (a) where requests are made under Articles 12 to 14 of the Taking of Evidence Regulation; and (b) where there is direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation?

In the case of requests made under Articles 12 to 14 of Regulation 2020/1783, the rules of the Code of Civil Procedure must be applied in accordance with Article 12(2). Under the Code of Civil Procedure, court proceedings are conducted in Hungarian, but no one may be placed at a disadvantage because of a lack of knowledge of the Hungarian language. Every person is entitled to use their mother tongue in court proceedings, or their regional or minority language where this is provided for by international conventions. Where necessary, the court has an obligation to use an interpreter. Furthermore, under Article 12(3) of Regulation 2020/1783, the requesting court may call for the request to be executed in accordance with a special procedure provided for in its national law. The requested court shall execute the request in accordance with the special procedure, unless doing so would be incompatible with its national law or it is unable to do so because of major practical difficulties. If the requested court does not comply with the call for the request to be executed in accordance with a special procedure for one of those reasons, it shall inform the requesting court.

In the case of requests made under Articles 19 to 21, the direct taking of evidence is to be carried out in accordance with the law of the Member State of the requesting court, pursuant to Article 19(8) of Regulation 2020/1783.

## 7 If interpreters are required, who is responsible for providing them and where should they be located (a) where requests are made under Articles 12 to 14 of the Taking of Evidence Regulation; and (b) where there is direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation?

In the case of requests made under Articles 12 to 14, if it is necessary to ensure the use of a party's mother tongue or a regional or minority language, the requested court has an obligation to use an interpreter.

The Code of Civil Procedure does not contain specific provisions on where exactly the interpreter should be located in the event of an examination via an electronic communications network. It does specify, however, that interpreters must be present in rooms set up for such examinations. On the basis of Decree 19/2017 of the Minister for Justice, the interpreter must be visible on the transmitted recording.

In the case of requests made under Articles 19 to 21, the requesting court shall, upon request, be assisted in finding an interpreter, in accordance with Article 20(2).

**8 What procedure applies to the arrangements for the hearing and to notify the person to be examined about the time and place (a) where requests are made under Articles 12 to 14 of the Taking of Evidence Regulation; and (b) where there is direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation? For both options, how much time should be allowed when arranging the date of the hearing to enable the person to receive sufficient notification?**

The order for an examination via an electronic communications network is served on the persons summoned at the same time as the summons for the hearing, examination or inspection. The order for an examination via an electronic communications network is sent by the court without delay to the court or other body providing the dedicated facilities for the examination via an electronic communications network.

The Code of Civil Procedure contains no special provisions concerning summons for examinations via an electronic communications network. A summons to attend a hearing must be sent so as to allow time for the receipt confirming that it has been served in accordance with the law to be returned to the court prior to the hearing.

The first hearing must be scheduled so as to ensure that the summons is served on the parties, as a general rule, at least fifteen days before the date of the hearing. The court may shorten that period in urgent cases.

In the case of requests made under Articles 19 to 21, the provisions of Article 19(4) and (8) must be applied.

**9 What costs apply to the use of videoconferencing and how should they be paid?**

The costs vary and must be covered (by a deposit or an advance) by the requesting court if the requested court so requests. The duty for the parties to bear these fees or costs is governed by the law of the Member State of the requesting court.

**10 What requirements, if any, are there for ensuring that the person examined directly by the requesting court has been informed that the performance shall take place on a voluntary basis?**

Under Article 19(2) of Regulation 2020/1783, the requesting court must inform the person concerned that the examination is voluntary. Under Section 80(6)(a)(aa) of Act XXVIII of 2017 on private international law ([A nemzetközi magánjogról szóló 2017. évi XXVIII. Törvény](#), in Hungarian), the Hungarian court involved in the organisation of the video conference must also inform the witness to be examined that their involvement is voluntary.

**11 What procedure exists for verifying the identity of the person to be examined?**

The identity of the person to be examined via an electronic communications network is verified on the basis of:

- the information provided by the person in question in order to verify their identity and address, and
- the presentation by technical means as specified by law of their official identification document or residence document.

If the court has ordered the confidential treatment of a witness's data, it must be ensured during the presentation by technical means as specified by law of their official identification document or residence document that such data can be seen only by the presiding judge or the registrar, if the examination or inspection is conducted by a registrar.

The court also uses electronic means or direct database queries to confirm that:

- the information provided by the person to be examined in order to verify their identity and address matches the records, and
- the official document and the residence document presented by the person to be examined as proof of identity match the records and are valid.

## 12 What requirements for taking oaths apply and what information is needed from the requesting court when an oath is required during direct taking of evidence under Articles 19 to 21 of the Taking of Evidence Regulation?

The Code of Civil Procedure does not provide for oaths in court proceedings.

## 13 What arrangements are there for ensuring that there is a contact person at the place of the videoconference with whom the requesting court can liaise and a person who is available on the day of the hearing to operate the videoconferencing facilities and deal with any technical problems?

The Code of Civil Procedure provides for the presence of a person responsible for ensuring the functioning and operation of the necessary technical equipment for examinations via an electronic communications network at the dedicated facilities.

The operator must ensure that the technical equipment for the examination is fully functional before the start of the examination. If there is any obstacle to the normal operation of the equipment, the operator reports the problem to the judge present at the venue designated for the hearing without delay and ensures that the problem is eliminated. The problem and the measures taken are then reported in writing to the operator's line manager. The examination via an electronic communications network cannot be started or continued until the problem is resolved. The procedural step underway when the problem or faulty operation of the technical equipment used for the examination via an electronic communications network occurred must be repeated if necessary.

## 14 What, if any, additional information is required from the requesting court?

In general, no additional information is required.

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